

DAVID K. BERTAN
ATTORNEY AT LAW
41 EAST 11TH STREET, 11TH FLOOR
NEW YORK, NEW YORK 10003

(718) 742-1688
E-MAIL: DBERTAN@YAHOO.COM

June 3, 2023

Under Seal via Email

Hon. Paul G. Gardephe, United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: USA v. Stuart Finkelstein
Docket No. 21-Cr-217 (PGG)

Dear Judge Gardephe:

I represent Mr. Finkelstein in the above matter. Sentencing is set for June 26, 2023 at 2 PM. I am respectfully requesting an adjournment of sentencing¹. As I mentioned in previous requests, Mr. Finkelstein was awaiting surgery for several injuries resulting from a car accident. The delay in those surgeries was necessary to get other medical conditions resolved. At the time of those applications, Mr. Finkelstein was suffering from hypertension and elevated blood sugar levels: until recently, those chronic conditions rendered him unacceptable for surgery. Recently, however, his underlying medical conditions have stabilized, and he is now scheduled for several procedures. The prior adjournments were necessary to allow Mr. Finkelstein's medical conditions to reach a point where he would be an acceptable candidate for surgery: he is now in that position, and the surgeries and procedures can now move forward.

As shown by the attached letters, which Mr. Finkelstein sent me last week, he is scheduled for shoulder surgery tomorrow, and has an oral surgery scheduled for July 6 to replace two teeth. The shoulder surgery will render Mr. Finkelstein unable to travel for a minimum of two to three months, due to immobility requirements and necessary physical therapy.

¹ I am aware of the Court's language in its previous order granting an adjournment, but Mr. Finkelstein's current medical condition provides an appropriate basis for the requested adjournment. As noted above, the prior adjournments were necessary to get Mr. Finkelstein to a point where his medical issues did not put him at risk for the necessary procedures.

Hon. Paul G. Gardephe, United States District Judge

June 3, 2023

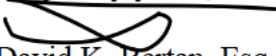
Page 2

I have consulted with the Government, who takes no position regarding my request, but who has listed several dates that work, given a firm trial date on another case. The Government will be on trial before the Hon. Jed Rakoff from August 16, 2023 through August 25, 2023. With that in mind, I am suggesting the following schedule: the Defense sentencing memorandum will be due July 14, the Government's response will be due July 28, and sentencing will take place after August 25, 2023.

In light of the foregoing, I am respectfully requesting an adjournment of sentencing until after August 25, 2023.

Thank you for your consideration in this matter.

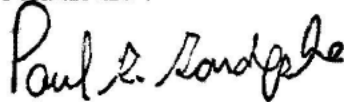
Very truly yours,


David K. Bertan, Esq.

cc: AUSA Rushmi Bhaskaran (via ECF)

MEMO ENDORSED: The application is denied.

SO ORDERED.



Paul G. Gardephe
United States District Judge

Dated: June 6, 2023

Ft. Lauderdale Orthopaedic Surgery and Sports Medicine

1414 Southeast 3rd Avenue | Fort Lauderdale, FL 33316

Phone: 954-626-3742 | Fax: 954-764-5522

Patient ☒ Stuart Finkelstein

Date of Surgery: 6/1/23

Surgeon: ☒ Dr. Kevin Shrock

☐ Dr. Matthew Wells

☐ David Nigen, MD

Place of Service: Outpatient Surgical Services 954-693-8600

Arrival time: You receive a call from the facility the night before for your arrival time.

Before Surgery

Please contact your PCP for Medical Clearance. Advise them this must be completed and faxed no later than 12pm on 5/25/23 by Dr. Abdon

To prevent complications before and after surgery, such as nausea and vomiting, **DO NOT EAT OR DRINK AFTER MIDNIGHT THE EVENING BEFORE SURGERY**. Continue taking your regular medicines (i.e., hypertension medication) with a very small sip of water, except for the medications in section 2 & 3.

1. Please **DO NOT TAKE**, Advil, Ibuprofen, Aspirin, Aleve, Glucosamine / Chondroitin, Vitamin E or any **anti-inflammatory drugs or any kind of DIET medication** for one week prior to surgery. You may take Tylenol or Celebrex. Please clear any additional medications with your medical doctor.
2. Do not take diabetic medication on the day of the surgery. Please clear this with your medical doctor.
3. If you are taking **any anticoagulants**, you **must STOP** taking these medications one week prior to surgery. **Please clear this with your medical doctor / cardiologist.**
4. Wear something loose and comfortable to the hospital for your post-operative convenience. Female shoulder patients may find it more convenient to wear a front-closure/e bra.
5. The use of the Physician Assistant**: ☒ will require ☐ will not require.

****If your procedure requires a surgical assistant a separate charge will be billed to your insurance company. Based on the contractual agreement with your insurance company, you may have some financial responsibility for this charge. We encourage you research your benefits.**

You will receive a separate bill from the anesthesiologist, hospital, and other ancillary providers. We encourage you to contact your insurance company for any co-pays/deductible that may apply to services for your surgery.

Post Op

1. **Your surgeon** will give you a prescription for post-operative pain medication at the hospital. Use with regularity for the first **3 days after surgery**, then use for comfort or if swelling/ pain develops.
☐ Cryo Cuff
☒ Ice / Slings - Bobby with Global DME will call you to provide with this equipment.
☐ Use crutches / walker as instructed by the therapist/nurse
☐ Wear your thigh high TED stocking (until seen in office)
2. Keep surgical area **DRY!!!** Do not shower until advised by your surgeon to do so.
3. Instructions regarding physical therapy will be given at your first post-operative visit in the office, unless otherwise advised by surgeon.
4. Please contact Sandi via email sandim@ftlauderdaleortho.com or phone with your medical clearance appointment and PCP information or if you have any additional questions.
5. **POST-OP APPT:** Call 954-764-8033 10 to 12 days post -op.

Patient notified on 5/3/23 by: ☐ Hand-deliver

☒ E-Mail

PHYSICIAN ORDERS	Patients Name: <u>Stuart Finkelstein</u>
	D.O.B.: <u>9/9/54</u> Age: <u>68</u>
DRUG ALLERGIES	Phone: <u>718. 261. 3900</u> Ins: <u>9/333. 8888</u> <u>MC</u>

Notes / Date	PRE-OP ORDERS FOR DRs. SHROCK / WELLS / NIGEN PHONE: 954-626-3742 / FAX: 954-764-5522	
4/21/23	Facility: <input type="checkbox"/> BHMC / <input type="checkbox"/> HCA / <input checked="" type="checkbox"/> OSS / <input type="checkbox"/> CCOS Date of surgery: <u>6/11/23</u> Admin Status: <input type="checkbox"/> InPat / <input type="checkbox"/> OutPat Time: <u>7:30</u>	
	Diagnosis: <u>(L) Shoulder Rot cuff tear</u>	
	Procedure & Consent: <u>left shoulder arthroscopy, subacromial decompression, modified Latarjet</u> <u>excision, rotator cuff tear</u>	
	Antibiotic: <input checked="" type="checkbox"/> Ancef 2g IV on call / <input type="checkbox"/> Clindamycin 900mg IV on call / <input type="checkbox"/> Vancomycin 1mg IV on call Anesthesia: Choice / <u>(General)</u> / Mac / Local / <u>(Block)</u> / Other: _____ OR Rep: _____ Specials: C-arm / Mini C-arm / Other: _____ Position: _____	
	Medical Clearance: Required: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO Please fax by 12:00 noon On: <u>5/25/23</u>	
	DR: <u>Abdon</u> PHONE: _____ FAX: _____	
	<input checked="" type="checkbox"/> CBC <input type="checkbox"/> Chem 7 <input checked="" type="checkbox"/> Chem 20 <input checked="" type="checkbox"/> Additional Labs: <input checked="" type="checkbox"/> Hgb A1C <input checked="" type="checkbox"/> PT/PTT INR <input type="checkbox"/> ESR/CRP <input type="checkbox"/> Other: _____ <input checked="" type="checkbox"/> ECG (if over 35 y/o) <input checked="" type="checkbox"/> Chest X-Ray <input checked="" type="checkbox"/> U/A	
	Additional orders: <input type="checkbox"/> Physical therapy: <input type="checkbox"/> ASAP <input checked="" type="checkbox"/> DME: <u>Slings</u> <input type="checkbox"/> Cold Therapy Unit: _____ <input type="checkbox"/> Post Op Appointment: <input type="checkbox"/> 8-10 days <input type="checkbox"/> 10-12 days <input type="checkbox"/> 14 days <input type="checkbox"/> Assistant: <input type="checkbox"/> Brittany Poole, PA-C <input type="checkbox"/> KBS <input type="checkbox"/> DLN <input type="checkbox"/> MEW <input type="checkbox"/> CRNFA	

Kevin B. Shrock, MD

David L. Nigen, MD

Matthew E. Wells, MD



301 NW 82nd Avenue
Plantation, FL 33324
Phone: (954) 693-8600
Toll Free: (877) 722-1766
www.ossplantation.com



Our Commitment to You - Outpatient Surgical Services is committed to providing excellent service. If problems arise, please ask a staff member to help you. If your concerns are not resolved, please ask to speak with the Administrator. Your feedback is important to us. If you prefer, you may write to:

Thank you for choosing the Outpatient Surgical Services.

Patient Information

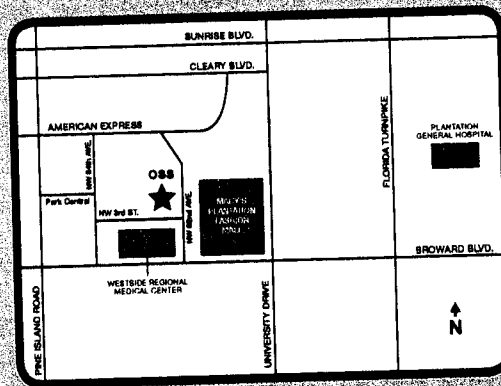
Date of your appointment: _____

Physician's Name: _____

Physician's Phone Number: _____

Patient's Name: _____

Special Instructions: _____



Directions from Hospital: Leaving Hospital Admissions, exit East to the parking lot onto N. 82nd Ave. Go North on 82nd Ave to the Outpatient Surgical Services building, 1/4 mile on your left.

301 NW 82nd Avenue, Plantation, Florida 33324
(954) 693-8600 • Toll-free (877) 722-1766 • Fax (954) 424-1996
www.ossplantation.com

Your physician ☐ does ☐ does not have partial ownership in this surgery center.



Global DME
Solutions

BOBBY SEILER

DME Specialist

3047 NW 60th St

Fort Lauderdale, FL 33309

bobby@globaldmesolutions.com

O: (954) 366.6396

M: (954) 557.0031

F: (954) 507.6936

Toll Free: 1.888.391.6358

www.globaldmesolutions.com



Gmail



Search mail



1 of 3,759

Surgery for Stuart Finkelstein; date of birth 9/9/1954

Inbox x



Finkelstein Law Group, PLLC <finkelsteinlawgroup@gmail.c... 2:08 PM (32 minutes ago)

to Tammy

Hello Tammy,

I need for you to kindly email me a confirmation of my oral surgery for my two teeth on July 6, 2023 v Friedman.

I'd appreciate very much if I can get it today.

Thank you in advance,

Stuart Finkelstein

(718) 261-4900

(954) 333-8888



Tammy P.

to me

2:40 PM (0 minutes ago)

Hello, yes Mr Finklestein

Your appointment is on

Thurs Jul 6th, 2023 @ 12:00

in Plantation with Dr. Kurt Friedman

CONFIDENTIALITY NOTICE: DO NOT FORWARD THIS MESSAGE TO OTHERS WITHOUT PERMISSION OF THE SENDER. This e-mail, including any attachments, may contain confidential or privileged material which is exempt from disclosure under applicable law. Any unauthorized review, use, disclosure, dissemination, copying, or taking any action in reliance on its contents is prohibited. If you have any reason to believe this e-mail was not intended for you, please delete the e-mail and any attachments, and notify the sender immediately.

CONFIDENTIALITY NOTICE: DO NOT FORWARD THIS MESSAGE TO OTHERS WITHOUT PERMISSION OF THE SENDER. This e-mail, including any attachments, may contain confidential or privileged material which is exempt from disclosure under applicable law. Any unauthorized review, use, disclosure, dissemination, copying, or taking any action in reliance on its contents is prohibited. If you have any reason to believe this e-mail was not intended for you, please delete the e-mail and any attachments, and notify the sender immediately.